

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

WALTER LENARD

PETITIONER

VERSUS

CIVIL ACTION NO. 5:06cv111DCB-MTP

JAMES T. WILLIAMS, et al.

RESPONDENT

ORDER

Before the Court is the petitioner's Motion for Summary Judgment [11-1]. Having reviewed the record, this Court finds that the motion is not well-taken. Summary judgment is appropriate where, after the underlying facts are viewed in the light most favorable to the nonmoving party, the record demonstrates that there is no issue of material fact and that the moving party is entitled to judgment as a matter of law. Martinez v. Bally's La., Inc., 244 F.3d 474, 476 (5th Cir. 2001). Clearly, this is not the case in this civil action. According to the docket entries, the respondent has not yet filed a response. See Rule 5 of the RULES GOVERNING SECTION 2254 CASES IN THE UNITED STATES DISTRICT COURT. Therefore, the petitioner's motion is denied. Accordingly, it is

ORDERED that the petitioner's Motion for Summary Judgment [11-1] is denied.

THIS, the 5th day of October, 2006.

S/DAVID BRAMLETTE
UNITED STATES DISTRICT JUDGE